Instructions for Filling Out the Clean Water Act Section 401 Water Quality Certification Application

Most projects requiring 401 Certification fall into two categories:

1. Projects involving discharges of dredged or fill material to waters of the United States including wetlands and other water bodies. Such discharges may result from navigational dredging, flood control channelization, levee construction, channel clearing, fill of wetlands for development, or other activities. These projects involve the removal or placement of soil, sediment, and other materials in or near water bodies and require Corps permits under CWA Section 404. This information sheet concerns this category of activities.

2. Projects involving construction of hydroelectric dams, power plants, and other facilities requiring Federal Energy Regulatory Commission (FERC) licenses and projects which must secure a State water rights permit. The State Board reviews these projects for certification. For more information on certification of projects seeking FERC licenses and water rights permits, contact:

   Division of Water Rights
   State Water Resources Control Board
   P.O. Box 2000
   Sacramento, CA 95812-2000
   (916) 341-5300 (information)
   (916) 341-5308 (certification team leader)

Section 1: Applicant / Agent Information

Please include name, title, company, address, telephone, fax number, and email address of applicant. Complete agent information only if certification application is being transmitted by an agent/consultant. Please include name, title, company, address, telephone, fax number, and email address of agent.

Section 2: Project Description

a) Provide a project name or title consistent with other agency applications
b) Describe the purpose and final goal of project
c) Describe specific project activities relating to fill or excavation of the waterbody. Provide a full technically accurate description
d) Describe the Proposed Schedule including the start-up, duration, and completion dates of project

If, during the course of the project the project description should change, the Regional Water Quality Control Board shall receive a written update as soon as changes are known.

Section 3: Project Site Description

Indicate the project location on a road map and a map of suitable detail, quality, and scale (like an USGS 7.5-minute quadrangle topographic map) to allow identification of the project area and any water body(ies) potentially receiving a discharge.

a) Indicate the city or area, county, longitude and latitude, township/Range(if available)
b) Indicate the area type or description (check as appropriate)

If the project site is in two or more regions, the application must be submitted to the State Water Resources Control Board, not the regional boards, for review.

State Water Resources Control Board
Water Quality Certification Unit
1001 I Street, 15th Floor
Sacramento, CA 95814

Section 4: Impacted Water Bodies

a) Identify the water body(ies) that may receive a discharge and type(s) of receiving water body(ies). The term "waterbody" in this document, refers to any stream, creek, intermittent drainage, drainage swale, drainage ditch, seep, pond, bay, estuary, vernal pool, marsh, wetland, ground water basin, or any other waters of the State. Most receiving water bodies are listed in the Water Quality Control Plan, Central Coast Region (Basin Plan). For unlisted waters, the major tributary(ies) must be identified.

b) Streambed and riparian impacts should be reported below the Ordinary High Water Mark. The Ordinary High Water Mark can be described as the line on the shore established by the fluctuation of water and indicated by physical characteristics such as clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas. Include impacts to U.S. Army Corps of Engineers Jurisdictional Wetlands and all other wetlands that are not considered to be US ACOE Jurisdictional.
   - Discharge area should be reported in acres.
   - Discharge length shall be reported in Linear Feet. Includes linear discharges to drainage features and shorelines, e.g., bank stabilization, revetment, and channelization projects.

   "Isolated waters"
   A permit is required from the Regional Board if the project discharges to an "isolated" (non-jurisdictional) waterbody. If fill is discharged to an "isolated" without a State Permit the applicant may be subject to substantial fines or criminal action and may have to restore the waterbody to its original condition. "Isolated" waters were determined by the US Supreme Court to not need federal permits (the "SWANCC decision"), so the applicant will not receive a Corps Section 404 or a Certification. But the State permit will ensure that beneficial uses are protected in exactly the same way. Make sure the Corps agrees that the waterbody is "isolated". Otherwise the applicant might be subject to substantial federal penalties for violation of the CWA.

c) Indicate in cubic yards the volume of dredged material. Dredged material is defined as removing sediment in deeper water to increase the depth and is best described by the volume of the discharge. Indicate in cubic yards the volume and in acres or linear feet the area of fill material. Fill material is defined as moving sediment or soil in shallow waters or under no-flow conditions where impacts are best described by the area of the discharge. The total area of disturbance within the waterbody is the summation of all temporary and permanent impacts.

d) Describe the type(s) of material proposed to be dredged. In addition to soil types, applicants must determine if dredged soils are contaminated. Attach chemical analysis if appropriate.

Section 5: Water Quality Sampling

a) Indicate the potential for pollutant release resulting form the entire proposed project (including during and post-construction)
b) Indicate whether water quality sampling has occurred and if yes, what parameters were sampled. Also provide data from the sampling if appropriate.
c) Indicate whether water quality sampling is planned and if so, what parameters will be sampled.

Section 6: Dewatering Operations

Describe the method used to remove groundwater and divert surface water if necessary to implement the proposed project. Please attach a diagram with the description. Identify the following if applicable

a) Discharge to surface waters, name of receiving water, estimated volume and flow rate, and management measures proposed (requires NPDES permit, Contact Regional Board for further information)
b) Discharge to retention ponds, location (on-site or off-site), and control measures
c) Diversion of state waters, location (on-site or off-site), control measures

Section 7: Waste Discharge

Projects that include a waste treatment system (e.g., septic/leach field) as part of the project should fill out this section. Discharge from any system associated with the project should be described.

a) Nature/Composition of waste including projected volume (in GPD) and source
b) Location of treatment and disposal system, attach a map if necessary
c) Proposed method for treatment

Section 8: Federal Licenses / Permits

a) Specify the federal permit or license being sought. 401 Certification is dependent upon a valid application for a 404 permit from the ACOE or another application for a federal license or permit.
b) Include the U.S. Army Corps of Engineers Permit Type(s) - Nationwide reporting or non-reporting, Individual, or Regional. Attach a copy of the US ACOE application
c) Identify if the project requires any other Federal Application(s), Notification(s), or Correspondence. Attach copy(ies) of other Federal applications (if necessary)
d) Identify if the project requires a Federal Energy Regulatory Commission (FERC) license or amendment to a FERC license.

Section 9: Other Licenses/Permits/Agreements

a) List all other local or state required regulatory approvals.
If a Lakebed or Streambed Alteration Agreement (LSAA) from the Department of Fish and Game (DFG) is appropriate for the project, please provide a copy of the application or agreement. Projects on federal property are exempt. For more information please go to: http://www.dfg.ca.gov/1600/.

Section 10: California Environmental Quality Act (CEQA)

The Regional Board is required to comply with CEQA before approving a project. 401 Certification will not be granted without CEQA compliance. For information on CEQA or NEPA, visit the following websites:
CEQA: http://www.ceres.ca.gov/topic/env_law/ceqa/
NEPA: http://www.ceres.ca.gov/env_law/federal/nepa.html

- Indicate the type of CEQA document (e.g., Environmental Impact Report, Mitigated Negative Declaration or Categorical Exemption) and the Lead Agency
- Submit a copy of the final determination and indicate the State Clearinghouse Number
- If the document has not been certified/approved indicate the expected approval/filing date

If another local or State agency is the lead agency for CEQA, obtain the final environmental documentation and determination before the certification application is submitted. If the Regional (or State) Board must be the CEQA Lead Agency, contact that agency well before submitting the application.

Section 11: California Environmental Quality Act (CEQA) Mitigation

Describe all mitigation measures required for CEQA compliance relating the following:

- Biological Resources
- Septic Systems
- Soil Erosion/Grading
- Water Supply/Groundwater
- Water Quality/Hydrology
- Riparian Areas
- Wetlands
- Wildlife

Describe in the application or reference mitigation measures in the Final CEQA Document

Section 12: Compensatory Mitigation

a) Indicate in acres and linear feet (where appropriate) the total quantity of waters proposed to be Created, Restored and/or Enhanced to mitigate for temporary and permanent impacts.
Definitions of types of mitigation from the Army Corps of Engineers are as follows:
    - Creation – The establishment of a wetland or other aquatic resource where one did not formerly exist

- Enhancement – Activities conducted in existing wetlands or other aquatic resources which increase one more aquatic functions
- Restoration – Re-establishment of wetland and/or other aquatic resource characteristics and function(s) at a site where they have ceased to exist, or exist in a substantially degraded state
- Preservation – The protection of ecologically important wetlands or other aquatic resources in perpetuity though the implementation of appropriate legal and physical mechanisms

The Regional Board strives to maintain a "no net loss" of value and physical size of wetlands and other waterbodies. The Board requires the following mitigation measures for temporary and permanent impacts.

- Permanent impacts to wetlands: 3:1 ratio (area mitigated:area impacted) for created wetlands, 2:1 ratio for restored or enhanced wetlands
- Temporary impacts to wetlands: 1:1 mitigation to restore to preconstruction conditions
- Permanent impacts to streambed: 2:1 replacement ratio OR 1:1 riparian area enhancement
- Permanent impacts to riparian area: 1:1 replacement inkind with native vegetation
- Temporary impacts to streambed or riparian area: 1:1 mitigation to restore to preconstruction conditions

Section 13: Other Actions / Best Management Practices (BMPs)

Briefly describe or reference other actions or BMPs to be implemented to avoid and/or minimize impacts to waters, including preservation of habitat, erosion control measures, project scheduling, flow diversions, etc.

- Describe efforts that have been or will be taken to avoid adverse impacts to waters of the State. Impact avoidance actions might include reconfiguring a project to avoid filling a waterway and to provide creek or wetland buffers, using a span bridge rather than a culvert for a roadway crossing.
- For impacts that cannot be avoided, describe steps that have been taken or will be taken to minimize adverse impacts. Impact minimization actions might include using bioengineering techniques, minimizing the use of hardscaping and reducing impervious surfaces to reduce stormwater runoff.

Section 14: Past/Future Proposals by the Applicant

Briefly list or describe, including adverse impacts, any project implemented by the applicant within the last five years or planned for implementation in the next five years that relate in any way to the proposed activity or may impact the receiving body of water. For purposes of this item, the water body extends to a named source or stream segment identified in the relevant basin plan.

Section 15: Signature

Sign and date the application.

Filing Fee

- Projects with total impacts (temporary and permanent) less than or equal to 0.1 acres, 200 linear feet, and 25 cubic yards, the project is considered "Low Impact" only requiring a $500 application fee.
- Projects with total impacts (temporary and permanent) greater than 0.1 acres, 200 linear feet, or 25 cubic yards, the project is not a "Low Impact" and is subject to additional fees as determined in the Fee Calculator at the State Water Resources Control Board website. http://www.swrcb.ca.gov/cwa401/docs/feecalculator.xls
- Projects falling under the Army Corps of Engineers "Notification". Projects that require Notification only require a $60 fee. Find more information about ACOE Notification Requirements in the Clean Water Act Section 401 Water Quality Certification of Nationwide Permits (NWPs)

All fees shall be made payable to the Central Coast Regional Water Quality Control Board and submitted to:
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401
Attn. 401 Coordinator

For additional questions about filling out the 401 application please contact our office (805) 549-3147.